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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,218	05/22/2006	Francisco Casas Salva	MDR-0057	1853
34610 7590 09/03/2008 KED & ASSOCIATES, LLP P.O. Box 221200 Chantilly, VA 20153-1200				
EXAMINER				
CLEMENT, MICHELLE RENEE				
ART UNIT		PAPER NUMBER		
3641				
MAIL DATE		DELIVERY MODE		
09/03/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/580,218

Applicant(s)

CASAS SALVA, FRANCISCO

Examiner

Michelle (Shelley) Clement

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection as necessitated by applicant's amendments.

Specification

2. The disclosure is objected to because of the following informalities: Page 1 of the specification refers to "Patent application No 200002464", it is not clear what this is a reference too (this does not correspond to any U.S. patent application).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crisler (US Patent # 1,795,840). Crisler discloses a rifle, comprising a rifle support (reference 11), a shell propulsion mechanism (the examiner considers rifle/stock (reference 10) as a shell propulsion mechanism, in the alternative it would have been obvious to include a shell propulsion with the stock since it is well known to propel shells from a portion of a gun including a gun stock), screws that fix the shell propulsion mechanism to the rifle support (reference 16), a protective cover (reference 12) that covers an area on the rifle support including heads of the screws, the protective cover comprising, a main body having a predetermined length and width

corresponding to a length and width of the area to be covered on the rifle support, and a fixing device that fixes the main body to the area to be covered, wherein the fixing device comprises one or more deformable protrusions (Figures 5 & 6) (the pad is disclosed as made from "soft resilient material" "for example soft India rubber") configured (i.e. having the ability) to push-fit mate with one or more corresponding recesses (reference 14) (it is noted that the only way the pad could be installed onto the plate would be to "push-fit" the pad onto the plate. The main body is *configured* in size and shape such that at least part of a perimeter portion thereof mates with a recess formed on an exterior surface of the rifle support (Figures 3-6). Further comprising a positioning device that positions the main body on the rifle support (references 13, 14, 15a). The main body is transversally convex towards an exterior and longitudinally elongated (Figures 3 & 4). At least part of an exterior surface of the main body is smooth (Figures 5 & 6) and can (i.e. have the ability to, however the claimed term "can" does not require that it does have) bear graphic printed information on an exterior surface. The cover comprises a single piece of material. With regards to claim 29 it is noted that product-by-process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps; "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 227 USPQ 964. Regarding the process for making the claimed projectile or the Product by Process Claims, applicant is direct to MPEP § 2113 cited in the prior office action. Therefore the shape of the cover being produced by a single

piece obtained through the injection molding process is not pertinent in this instance to the patentability of this product claim. Crisler discloses the claimed invention except for the fixing device comprising the at least two deformable projections to fit into at least two recesses. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include multiple projections instead of the single large projection, since it has been held that making separate parts from what had previously been a single part involves only routine skill in the art. Crisler discloses the claimed invention except for the deformable protrusions having a mushroom shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the protrusions of Crisler mushroom shape as a matter of design choice since applicant has not disclosed that the particular shape is for any purpose or solves any stated problem and it appears that the shape of the deformable projections would work equally well shaped to fit in the recess as disclosed by Crisler.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle (Shelley) Clement/
Primary Examiner, Art Unit 3641